



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 8041-99
24 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he be transferred to the Retired Reserve vice being discharged on 6 December 1977.

2. The Board, consisting of Mr. Pfeiffer, Ms. Hare and Ms. Davies, reviewed Petitioner's allegations of error and injustice on 23 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Naval Reserve for two years on 7 December 1974 and subsequently extended that enlistment for a period of one year. At the end of his anniversary year on 16 March 1977 he was credited with 19 years, 2 months and 8 days of qualifying service for reserve retirement. On 12 August 1977 he was transferred to the Individual Ready Reserve (IRR). He was honorably discharged on 6 December 1977 at the expiration of his enlistment, as extended. During the period from 17 March 1977 until his discharge on 6 December 1977 he was credited with 36 retirement points from drills and correspondence courses and 11 points for a partial year of membership points, for a total of

47. Because he was discharged prior to the end of his anniversary year, he was only credited with 8 months and 20 days of qualifying service for retirement. Therefore, Petitioner has 19 years, 10 months and 28 days of qualifying service for reserve retirement. Petitioner became 60 years of age on 20 March 1999.

d. Petitioner's record shows an administrative remarks (page 13) entry which states that on 6 December 1977 he entered into an agreement to extend his enlistment for 12 months at the Naval Reserve Center in Macon, GA. That same day he was honorably discharged by the Naval Reserve Personnel Center in New Orleans, LA. If this extension had become effective, he would have over 20 years of qualifying service.

e. Petitioner became 60 years of age on 20 March 1999 and his application for retired pay was rejected because he did not have 20 years of qualifying service. He states that if he had understood his situation, he would have extended his enlistment for two months.

f. Attached to enclosure (2) is an advisory opinion from the Navy Personnel Command which supports Petitioner's request for a correction to his record.

e. The Board is aware that the Uniform Retirement Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that the record actually indicates that Petitioner attempted to extend his enlistment on 6 December 1977. The Board also notes that Petitioner was in good standing in the Naval Reserve and would have been extended and retired if he had been properly advised to do so. Therefore, the Board agrees with the recommendation contained in the advisory opinion and concludes that the record should be corrected to establish eligibility for retired pay at age 60.

Therefore, Petitioner's record should be corrected by showing that he extended his enlistment for a period of four months to allow completion of a full anniversary year. With this action, he will be credited with four additional membership points and will have 50 points and a qualifying year for retirement. Given the requirements of the Uniform Retirement Date Act the record should then be corrected to show that he transferred to the Retired Reserve on 1 April 1978 in the rate of BTC (E-7). Since he is now 60 years old, the record should be further corrected to

show that he transferred to the Retired List on 20 March 1999, his 60th birthday.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Naval Reserve.

RECOMMENDATION:

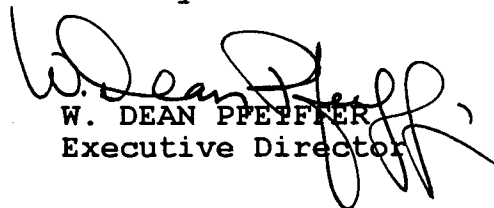
- a. That Petitioner's naval record be corrected to show that he extended his enlistment for an additional period of four months.
 - b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve on 1 April 1978 in the rate of BTC, and that the record be further corrected to show that he transferred to the Retired List on 20 March 1999, his 60th birthday.
 - c. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director